

Request for Reconsideration:

Consistent with Applicants' representatives telephone conversation with the Examiner on September 6, 2006, Applicants are canceling claims 1-12 and 23-33, without prejudice. In response to the Restriction Requirement, Applicants provisionally elect Group I, directed to method claims 13-22 and 35, without traverse. Accordingly, claim 34 is withdrawn from consideration. Thus, claims 13-22 and 35 currently are pending in the application. Applicants respectfully request that the Examiner reconsider the above-captioned patent application in view of the following remarks.

Remarks:

1. Rejections.

Claims 13-15, 20-22, and 35 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Published Patent Application No. US 2005/0192604 A1 to Carson et al. (“Carson”) in view of Published Application No. US 2002/0161383 A1 to Akin et al. (“Akin”), and claims 16-19 stand rejected as allegedly rendered obvious by Carson in view of Akin, and further in view of either Published Application No. US 2002/0151914 A1 to Gifford et al. or PCT Publication No. WO 00/24339 to Berreklouw. Applicants respectfully disagree.

2. Obviousness Rejections.

In order to establish a prima facie case for obviousness, the Office Action must fulfill three (3) criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Office Action. Second, there must be a reasonable expectation of success. Third, the prior art references must disclose or suggest all the claim limitations. MPEP 2143. Applicants respectfully submit that the Office Action fails to establish a prima facie case of obviousness with respect to claims 13-22 and 35 for at least the following reasons.

a. Claims 13 and 35

Claim 13 stands rejected as allegedly being rendered obvious by Carson in view of Akin. The Office Action contends that Carson discloses positioning a first securing component 14 of a first attachment portion 298 within target vessel W; securing target vessel W to first securing component 14; and connecting first attachment portion 298 with a second attachment portion 296. The Office Action acknowledges that Carson fails to disclose

positioning first securing component 14 of second attachment portion 296 within a second conduit. See Office Action, Page 4, Lines 16-17. The Office Action, however, contends that it would have been obvious to a person of ordinary skill in the art to modify Carson in view of the disclosure of Akin, which purportedly shows side-to-side vessel anastomosis between vessel 9 and vessel 10. Id. at Lines 17-23 (citing Akin, **Fig. 2**). Applicants respectfully disagree.

Carson uses a single conduit 292 to connect two blood vessels. As shown in **Fig. 21C**, for example, attachment portion 298 includes a first securing component 14 positioned within a first vessel, and second attachment portion 296, having the same structure as the first attachment portion, which includes a first securing portion 14 positioned within a second vessel. See Carson, Para [0109]. Each attachment portion 296, 298 has an extension 32 that includes a locking structure 34 for engaging a corresponding locking structure 38 of a second securing component 16, which may be integral to conduit body 294. See, e.g., Carson, Para. [0068]; **Figs. 3A-3B**. If the conduit body 294 is not integral, then it may be coupled to the second securing component “via any suitable structure, for example, suture, fasteners, clamps, clips, or expandable locking elements.” Carson, Para. [0066]. Nevertheless, Carson fails to disclose connecting first attachment portion 298 and second attachment portion 296.

Nevertheless, the Office Action may not be rely upon Akin to overcome Carson’s deficiencies. MPEP 2143.01 states that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious.” Carson performs the “clamping” method step by joining second securing component 16 to first securing component 14 to compress the vessel wall W. See, e.g., Carson, Para. [0071]; **Fig. 3B**. In contrast, however, Akin discloses interconnecting first and second segments 2 and 3, but the

Office Action fails to demonstrate that Akin discloses or suggests clamping. See, e.g., Akin, Para. [0078]. Rather, Akin relies upon segments 2, 3 to conform to the interior walls of their respective vessels 9, 10 to provide a sealing contact surface. See, e.g., Akin, [0079]. Thus, Applicants respectfully submit that modifying the securing components of Carson in view of Akin would change Carson's principle of operation.

Accordingly, the Office Action fails to establish a prima facie case of obviousness. Therefore, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claim 13.

b. Claims 14-22

Claims 14-22 depend, either directly or indirectly, from allowable, independent claim 13. MPEP 2143.03 states that “[i]f an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” Thus, Applicants submit that claims 14-22 are allowable for at least the same reasons claim 13. Therefore, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claims 14-22.

c. Claim 35

Claim 35 also stands rejected as allegedly being rendered obvious by Carson in view of Akin. The Office Action contends that Akin discloses bending the concave side 104 of second segment 96. See Office Action, Pages 7, Lines 3-4. Based on Akin's disclosure, the Office Action further contends that it would have been obvious to one of ordinary skill in the art “to bend the tissue clamp disclosed by Carson in a similar manner as taught by Akin for separating the saddle from the tissue clamp and allowing for easier placement of the saddle within the lumen.” See Office Action, Pages 7, Lines 4-9. Applicants respectfully disagree.

In Carson, a first securing component 14 is positioned against vessel wall W by using delivery device 40. See, e.g., Carson, Para. [0070]; **Fig. 3A**. After the first securing component is placed within the vessel, second securing component 16 is moved along sleeve 42 until grooves 38 of second component 16 engage teeth 34 of first component 14. Carson, Para. [0071]; **Fig. 3B**. Once components 14, 16 are engaged, vessel wall W is “captured and compressed . . . to secure conduit 10 to the target vessel.” Id. Thus, first securing component 14 already is positioned within the target vessel prior to being connected with second securing component 16. As a result, there would be no motivation, suggestion, or incentive to bend Carson’s second securing component 16 to “[allow] for easier placement of the saddle within the lumen,” as described by Applicants’ claim 35.

Accordingly, the Office Action fails to establish a prima facie case of obviousness because the their requisite motivation, suggestion, or incentive to combine references in the manner proposed is not provided by the art of record. Thus, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claim 35.

Conclusion:

Applicants maintain that the above-captioned patent application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicants' representative, Applicants would welcome the opportunity to do so.

Applicants believe that no fees, other than the fee for a one-month extension of time, are due as a result of the submission of this Responsive Amendment. Nevertheless, in the event of any variance between the fees determined by Applicants and the fees determined by the PTO, please charge or credit any such variance to the undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,
BAKER BOTTS, L.L.P.

Date: **January 25, 2007**

By: /William S. Foster, Jr./
William S. Foster, Jr.
Registration No. 51,695

BAKER BOTTS, L.L.P.
The Warner
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
Tel.: (202) 639-7700
Fax: (202) 639-7890

WSF/